

II. FINDINGS OF FACT

2.1 Appellant Janice Marrison is a Liquor Enforcement Officer 4 and a permanent employee of Respondent Liquor Control Board (LCB) in the Kent Enforcement Region. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on May 26, 1999.

2.2 By letter dated April 27, 1999, Appellant was demoted from her position as the Kent Enforcement Region Agent-in-Charge (AIC) to a Liquor Enforcement Officer 4 position, effective May 16, 1999. Appellant was demoted pursuant to Washington Management Service (WMS) WAC 356-56-500 based on the allegations that she 1) created a negative working environment for the Kent Region staff and 2) abused her authority as the AIC.

2.3 Appellant has been employed by the state of Washington since November 1, 1981. She began employment with Respondent in February 1988. Appellant has never received any informal or formal disciplinary actions during her employment with Respondent.

2.4 Appellant was appointed as the Kent Region AIC on February 16, 1997. Prior to her appointment as the Kent Region AIC, Appellant was a senior agent in the Everett region. As a senior agent, Appellant supervised six subordinate agents, acted as a field training officer for new agents, and worked in the field.

2.5 Appellant was the first woman appointed to an AIC position with LCB. Richard Manoli and Al Anderson, both senior agents in the Kent Region, were also contenders for the Kent AIC

1 position. Mr. Manoli and Mr. Anderson continued employment in their senior agent positions in
2 the Kent Region after Appellant was selected for the AIC position.

3
4 2.6 Subsequent to her appointment as Kent Region AIC, Appellant spent two weeks working
5 with Rex Prout, the Assistant Chief of Enforcement and Education, and was provided 80 hours of
6 Washington Management Service training. In addition, Appellant was paired with an experienced
7 AIC who acted as her mentor, received almost daily advice and direction from Mr. Prout, and was
8 encouraged to contact her fellow AIC's for assistance.

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10 2.7 As an AIC, Appellant was responsible for managing the physical, financial and personnel
11 resources of the Kent Region to ensure mission success and program integrity. Appellant oversaw
12 the work of the region, worked with outside law enforcement and community leaders, and was a
13 member of the LCB management team.

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15 2.8 The Kent Region consisted of two enforcement teams. Each team was lead by a senior
16 agent. As team leaders, the senior agents oversaw the work performed by their team members and
17 were responsible for the day-to-day operations of the teams.

18
19 2.9 When Appellant became the region's AIC, morale in the region was low, the region was
20 short-staffed, and the former AIC, who was preparing for retirement, had provided very little
21 guidance or direction to the staff. Therefore, Mr. Prout directed Appellant to focus on team
22 building within the region; to allow the senior agents to continue to run the day-to-day operations;
23 and to listen and consider staff feedback, observe the operations of the unit and take time before
24 implementing any changes in the region.

1 2.10 In March 1997, Mr. Manoli raised concerns to Mr. Prout about Appellant's management of
2 the Region office, specifically about her behavior toward him and another employee. In November
3 1997, Mr. Manoli met with Mr. Prout to discuss his decision to seek a demotion and transfer.
4 During this meeting, Mr. Manoli again voiced his concerns about Appellant to Mr. Prout. There is
5 no indication in the record that Mr. Prout discussed any of these concerns directly with Appellant.

6
7 2.11 Within six months of Appellant's appointment as the AIC in the Kent Region office, two
8 employees filed complaints against her. Each case was investigated and no probable cause was
9 found regarding the specific allegations of those complaints. In February 1998, Nate Ford, Chair of
10 the LCB, talked with Susan Blaker, an agent in the Kent Region, about her concerns regarding
11 Appellant. There is no indication in the record that either Mr. Ford or Mr. Prout discussed any of
12 Ms. Blaker's concerns directly with Appellant. However, sometime after March 18, 1998, when
13 Appellant returned to work from vacation, Mr. Prout told her that he had a meeting with Mr. Manoli
14 and that things were not going well in the region.

15
16 2.12 After becoming the AIC, Appellant initiated changes to several existing processes in the
17 region. The changes were implemented without staff's input, were unnecessary and negatively
18 impacted their ability to do their day-to-day work. For example:

- 19 • In March 1997, Appellant announced that she was converting the filing system from a
20 numeric to an alphabetic central filing system. This change required agents to make
21 duplicate working copies of active files to keep in their work areas. This was
22 burdensome and made it more difficult for the agents to locate files with identical
23 names.

- Appellant converted space in the evidence room into an area for her personal files and provided the regional secretary with a key to the evidence room. This had the potential to compromise evidence security.
- Appellant gave directions to staff that conflicted with the region's LCB Enforcement Manual. This caused the agents to distrust Appellant and to question her directives.
- Appellant micro-managed staff and instructed them that all incoming or outgoing phone communications outside of the region and that all outgoing written communications were to be approved by her before they were transmitted. This restricted the agents ability to do their jobs and to communicate with others in the agency.

2.13 Morale among the senior staff of the region remained low and Appellant continued to create a negative working environment for them. For example,

- Appellant entered into heated disagreements and became angry with senior staff.
- Appellant made disparaging comments about senior staff to the new hires.
- Appellant changed procedures without considering input from senior staff.
- Appellant assigned new equipment and vehicles to new hires rather than to senior staff.
- Appellant reassigned training duties from senior staff to herself and to an agent.

2.14 Morale among the new hires was high. Appellant praised the new hires, confided in them about her negative feelings toward the senior staff, and attempted to rally their support. However, morale began to decline as a result of Appellant's management of the region and her actions towards staff which created a negative working environment. For example,

- Appellant enforced strict adherence to the "chain of command."
- Appellant denied an agent's use of sick leave and arbitrarily changed the agent's leave slip.

- Appellant inappropriately contacted staff at their homes during off-work hours.
- Appellant limited region staff's ability to seek advice and direction from personnel and other LCB staff.
- Appellant raised her voice and became angry during discussions with staff.

2.15 Mr. Prout completed three evaluations on Appellant's performance during her first seven months as an AIC. The evaluations set forth Mr. Prout's general expectations for Appellant's performance. In the evaluations, Mr. Prout praised Appellant's efforts and he did not specifically address any exact areas of deficient performance. In the evaluations, Mr. Prout suggested ways in which Appellant could provide leadership and interact with staff.

2.16 Because of the concerns raised by Ms. Blaker to Chair Ford, Mr. Prout initiated a series of meetings. These meetings were facilitated by Tony Jones, Deputy Director for Distribution for LCB. The first meeting was held on April 1, 1998. During the meeting, the region staff agreed that weekly team sessions would be helpful to allow the staff to provide input on their issues. During the meeting, staff voiced their concerns about the process changes Appellant had made and about her management style. Appellant was not aware of the magnitude of staff's concerns until this meeting.

2.17 A region staff meeting was held on April 7, 1998. Staff were not happy with the results of the April 7 meeting and felt that rather than facilitating a participatory process, Appellant continued to be dictatorial.

2.18 On April 22, 1998, a second meeting was held with Mr. Jones as the facilitator. At the beginning of the meeting, Mr. Jones asked if everyone had seen the notes from the April 1 meeting.

1 Because Appellant had not distributed them to the staff, Mr. Jones asked her to retrieve her copy
2 and to make duplicate copies for the staff. While Appellant was gone, staff began sharing with Mr.
3 Jones their concerns regarding Appellant. When Appellant returned, Mr. Jones asked her to remain
4 out of the room.

5
6 2.19 Appellant credibly testified that because she was concerned that staff might be upset, on
7 April 22, 1998, she contacted personnel and was advised to talk to her staff to attempt to resolve
8 their concerns. During after-work hours on the evening April 22, 1998, Appellant attempted to
9 telephone some of the staff who attended the second meeting.

10
11 2.20 A third meeting was held on April 24, 1998. Mr. Prout told Appellant that he would be
12 attending the meeting without her and that she would join the group when he was done. During the
13 early afternoon, Mr. Prout and Mr. Jones entered Appellant's office and told her that the agents had
14 expressed serious concerns about her. These concerns included the assertions that Appellant
15 engaged in manipulation, coercion and threats toward staff. Effective April 24, Mr. Prout relieved
16 Appellant of her duties in the Kent Region office, less than one month after Appellant's first
17 knowledge of the magnitude of staff's concerns.

18
19 2.21 After meeting with staff on April 24, Mr. Prout concluded that staff distrusted Appellant,
20 feared retaliation from her, felt she constantly tested their loyalty to her, felt she had severely
21 limited their ability to communicate outside of the region, and could not continue to work for her.
22 On April 27, 1998, Mr. Prout assigned Appellant to perform special projects out of the Tacoma
23 office so that an assessment of the situation in the Kent office could be made.

1 2.22 Steven Smith, Assistant Chief of Enforcement, conducted the investigation. Mr. Smith
2 interviewed current and former staff of the Kent Region office and interviewed Appellant. Mr.
3 Smith found that a minority of the staff had no negative experiences with Appellant but that a
4 majority of the staff were strongly dissatisfied with Appellant's conduct as an AIC. Mr. Smith
5 concluded that Appellant's behavior "substantially compromised her ability to be trusted and
6 respected by her staff" which had "serious implications for the safety and effectiveness [of] the
7 current Kent staff and of any law enforcement activities in which [she] is directly or indirectly
8 involved." (Exh. R-5).

9
10 2.23 Gary Gilbert was Appellant's appointing authority. Mr. Gilbert considered all the available
11 information, including Mr. Smith's report, Appellant's employment history and Appellant's
12 responses to the charges. Mr. Gilbert concluded that contrary to Mr. Prout's direction, Appellant
13 failed to create a harmonious working environment in the region; attempted to intimidate,
14 manipulate and control staff; and compromised her ability to manage the region. Mr. Gilbert felt
15 that Appellant's actions had a direct bearing on agent safety and compromised their ability to
16 concentrate on their job duties while in the field. Mr. Gilbert concluded that demotion was
17 appropriate because Appellant failed to provide the leadership necessary to create trust and
18 harmony in the region and to promote a safe and productive work environment.

19 20 **III. ARGUMENTS OF THE PARTIES**

21 3.1 Respondent argues that Appellant created a negative working environment for her
22 enforcement staff which caused them to feel intimidated and to mistrust and fear her and that she
23 exhibited an egregious lack of respect for her subordinates, a lack of good judgement and a lack of
24 integrity. Respondent contends that Appellant did not consider staff feedback regarding procedural
25 changes and unilaterally made changes that negatively impacted her staff's ability to do their jobs.

1 Respondent further contends that Appellant gave her staff conflicting directions that were contrary
2 to the LCB Enforcement Manual and to the way other regions conducted their business.
3 Respondent asserts that Appellant restricted her staff's ability to communicate outside of the region
4 and failed to share information with them which placed impractical restrictions on their ability to
5 perform their jobs. Respondent further asserts that Appellant failed to empower staff to make
6 decisions at the lowest level, failed to listen to her staff, and failed to focus her efforts on team
7 building and building the trust and confidence of her staff as she had been directed to do.
8 Respondent contends that Appellant used a dictatorial style to micromanage the region and demean
9 and criticize staff, that she made unprofessional and disrespectful comments to staff, lied to staff,
10 showed favoritism and attempted to control and manipulate staff. Respondent argues that
11 Appellant's actions constituted misconduct, abuse of authority and destroyed the team atmosphere
12 at the Kent Region office. Respondent further argues that demotion is the least severe sanction
13 available to maintain the integrity of the LCB and to protect its employees from Appellant's
14 actions.

15
16 3.2 Appellant argues that while she was the Kent Region AIC the violations written by the
17 enforcement officers and the procedures affecting the mission of the agency were improved.
18 Appellant asserts that the charges against her resulted from Richard Manoli's contempt for her, that
19 he set out to undermine her authority and to contaminate her reputation with other LCB staff and
20 management. Appellant further asserts that her ambition, commitment to the job, and demanding
21 leadership style were seen as negatives because she was the only woman in the male-dominated
22 position of AIC. Appellant contends that her demotion was based on perceptions and incomplete
23 facts and was motivated by ulterior individual agendas or discriminatory attitudes. Appellant
24 argues that in light of her performance history and lack of any prior formal or informal disciplinary
25 actions, she should have been afforded an opportunity to remedy any perceived performance

1 deficiencies. Appellant asserts that she did not fail to act in a manner consisted with her AIC duties
2 and that no good cause exists to justify her demotion.

3 4 **IV. CONCLUSIONS OF LAW**

5 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
6 herein.

7
8 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting
9 the charges upon which the action was initiated by proving by a preponderance of the credible
10 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the
11 sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of
12 Corrections, PAB No. D82-084 (1983).

13
14 4.3 Respondent has met its burden of proof that Appellant created a negative working
15 environment in the Kent Region office. Appellant became angry and raised her voice to staff,
16 micromanaged the office, and did not allow staff to give her meaningful input prior to making
17 changes that affected the day-to-day operations of the office. Appellant's actions were
18 inappropriate and unprofessional. However, LCB management was aware of staff's concerns about
19 Appellant as early as March 1997, yet failed to discuss these concerns directly with Appellant.
20 Appellant was not given an opportunity to demonstrate improvement in her performance.

21
22 4.4 Respondent has met its burden of proof that Appellant abused her authority. Appellant
23 employed a dictatorial management style, arbitrarily made changes to region operations, unduly
24 restricted agents' ability to communicate, inappropriately changed an employee's leave slip, and
25 took actions that were contrary to the directions of her supervisor. Here again, LCB management

1 was aware of staff's concerns about Appellant, yet failed to discuss these concerns directly with
2 Appellant. Appellant was not given an opportunity to demonstrate improvement in her
3 performance.

4 4.5 In determining whether a sanction imposed is appropriate, consideration must be given to
5 the facts and circumstances including the seriousness and circumstances of the offense. The penalty
6 should not be disturbed unless it is too severe. The sanction imposed should be sufficient to prevent
7 recurrence, to deter others from similar misconduct, and to maintain the integrity of the program.
8 An action does not necessarily fail if one charge is not sustained unless the entire action depends on
9 the unproven charge. Holladay v. Dep't of Veteran's Affairs, PAB No. D91-084 (1992).

11 4.6 Given the facts and circumstances of this case, Respondent has proven that demotion was
12 the appropriate disciplinary sanction. However, for the reasons stated above, both Appellant and
13 Respondent should be held accountable for the breakdown of morale at the Kent Region office.
14 Therefore, a permanent demotion is too severe. We conclude that an eight-month demotion is
15 sufficient to prevent recurrence, to deter others from similar misconduct and to maintain the
16 integrity of enforcement program. Therefore, the appeal should be granted in part and Respondent
17 should make efforts to ensure that Appellant is provided the appropriate training and guidance and
18 given an opportunity to demonstrate improved performance.

20 V. ORDER

21 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Janice Marrison is granted in
22 part and the disciplinary sanction is modified to an eight-month demotion.

23 DATED this _____ day of _____, 2000.

25 WASHINGTON STATE PERSONNEL APPEALS BOARD

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